

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

ROY KESTERSON,

Plaintiff,

v.

**CIVIL ACTION NO. 3:08-CV-146
(BAILEY)**

**DOLE TOLER, DELBERT HARRISON,
WEST VIRGINIA PAROLE BOARD,**

Defendants.

ORDER ADOPTING OPINION/REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the Opinion/Report and Recommendation of United States Magistrate Judge John S. Kaull. By Standing Order, this action was referred to Magistrate Judge Kaull for submission of a proposed report and a recommendation ("R & R"). Magistrate Judge Kaull filed his R & R on December 4, 2008 [Doc. 15]. In that filing, the magistrate judge recommended that this Court transfer this matter to the U.S. District Court for the Southern District of West Virginia.

Pursuant to 28 U.S.C. § 636 (b) (1) (c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140,

150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); **Snyder v. Ridenour**, 889 F.2d 1363, 1366 (4th Cir. 1989); **United States v. Schronce**, 727 F.2d 91, 94 (4th Cir. 1984).


The plaintiff in this matter has not filed any objections to the magistrate judge's R&R. Rather, the plaintiff specifically states that he has "no problem with this case being transferred." See Doc. 20.

Accordingly, upon review of the report and recommendation, it is the opinion of this Court that the magistrate judge's **Opinion/Report and Recommendation [Doc. 15]** should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. Accordingly, this civil action is hereby **ORDERED TRANSFERRED** to the United States District Court for the Southern District of West Virginia for all further proceedings.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the *pro se* plaintiff.

DATED: January 30, 2009.


JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE